

EXHIBIT C

RE: FREEDOM OF INFORMATION ACT REQUEST

UNITED STATES CENTRAL COMMAND CCJ6-RDF (FOIA)
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AFB, FL 33621-5101

Nov. 9, 2021

Dear USCENTCOM FOIA Coordinator,

This is an urgent request submitted to the Department of Defense (“DoD”) and its component, United States Central Command (“CENTCOM”) under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), with a request for expedited processing.

I. REQUESTED RECORDS

Pursuant to the FOIA I hereby request copies of all ex gratia disbursement records, credibility assessment records, closure report records, lesson learned records, after action review records, **and** AR15-6 commander-directed investigation records that correspond with the following “condolence” or “ex gratia” payments made after being assessed as incident to U.S. military operations in Afghanistan in 2019 (65 payments) and 2021 (1 payment).

This request seeks all enclosures, exhibits and attachments within or referenced in these records, including but not limited to the following: mIRC logs or other chat and internet relaying message logs, Full Motion Video (FMV) or other video referenced, solatia assessments, emails, photos, post-strike imagery, screenshots, still image captures, and other images.

In order to assist you in locating responsive records, I am providing information below from the Department of Defense’s own public releases identifying the specific incidents and payments in question and confirming the existence of assessment and payment records related to these incidents.

| Payment Made in Year | | Country | Payment Type | Payment Amount | Source |
|----------------------|---|-------------|--------------------|----------------|---|
| 2021 | 1 | Afghanistan | Ex Gratia | \$5,000 | See Exhibit A: See Department of Defense Letter provided to Senate Armed Services Committee: SEC 1213 1st Quarter CY 2021[3].pdf |
| 2019 | 1 | Afghanistan | Condolence Payment | \$169 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 2 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 3 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 4 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 5 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 6 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 7 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 8 | Afghanistan | Condolence Payment | \$2,500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 9 | Afghanistan | Condolence Payment | \$2,500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 10 | Afghanistan | Condolence Payment | \$7,974 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 11 | Afghanistan | Condolence Payment | \$3,987 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 12 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 13 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 14 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 15 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 16 | Afghanistan | Condolence Payment | \$1,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 17 | Afghanistan | Condolence Payment | \$1,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 18 | Afghanistan | Condolence Payment | \$35,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 19 | Afghanistan | Condolence Payment | \$13,500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 20 | Afghanistan | Condolence Payment | \$5,962 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 21 | Afghanistan | Condolence Payment | \$9,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 22 | Afghanistan | Condolence Payment | \$18,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 23 | Afghanistan | Condolence Payment | \$6,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 24 | Afghanistan | Condolence Payment | \$2,500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 25 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 26 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 27 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 28 | Afghanistan | Condolence Payment | \$4,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 29 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 30 | Afghanistan | Condolence Payment | \$1,502 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 31 | Afghanistan | Condolence Payment | \$6,001 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 32 | Afghanistan | Condolence Payment | \$15,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 33 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 34 | Afghanistan | Condolence Payment | \$131 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 35 | Afghanistan | Condolence Payment | \$24,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 36 | Afghanistan | Condolence Payment | \$158 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 37 | Afghanistan | Condolence Payment | \$2,624 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 38 | Afghanistan | Condolence Payment | \$4,500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 39 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 40 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 41 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 42 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 43 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 44 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 45 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 46 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 47 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 48 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 49 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 50 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 51 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 52 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 53 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 54 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 55 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 56 | Afghanistan | Condolence Payment | \$10,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 57 | Afghanistan | Condolence Payment | \$5,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 58 | Afghanistan | Condolence Payment | \$500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 59 | Afghanistan | Condolence Payment | \$500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 60 | Afghanistan | Condolence Payment | \$500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 61 | Afghanistan | Condolence Payment | \$500 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

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| 2019 | 62 | Afghanistan | Condolence Payment | \$3,006 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 63 | Afghanistan | Condolence Payment | \$3,006 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 64 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |
| 2019 | 65 | Afghanistan | Condolence Payment | \$3,000 | See Exhibit B: "Department of Defense Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" |

Please provide all responsive records in electronic format.

As the FOIA requires, please release all reasonably segregable, nonexempt portions of responsive records. If you choose to deny any portion of my request, please provide a written explanation for the denial, including a reference to the specific statutory exemption(s) authorizing the withholding of all or part of the record, as well as an explanation of why USAID “reasonably foresees that disclosure would harm an interest” protected by that exemption or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552 (a)(8).

II. FEE CATEGORIZATION AND REQUEST FOR FEE WAIVER

In order to help you determine my status to assess fees, you should know that I am a reporter and this request is made in connection with my ongoing journalistic work, not for commercial use.

I am a writer for the New York Times Magazine (see <http://www.nytimes.com/interactive/magazine/masthead.html>) and have received numerous awards for my reporting, including the 2018 National Magazine Award for Reporting, the 2018 Overseas Press Club

Award for Best Magazine Reporting, the 2016 Daniel Pearl Award for Outstanding Reporting on South Asia, the 2016 Deadline Club Award for Independent Digital Reporting, a 2016 Livingston Award nomination in International Reporting, a 2014 Emmy nomination in New Approaches to Documentary Film, and other honors. Accordingly, as a representative of the news media, I am only required to pay for document duplication charges after the first 100 pages.

In addition, I am requesting a waiver of all fees associated with this request per 5 U.S.C. § 552(a)(4)(A)(iii) and 32 C.F.R. § 286.12. As noted above I am a reporter seeking these records for dissemination to the general public through my reporting, not for a commercial use. *See* OMB Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10019 (“a request for records supporting the news dissemination of the requester shall not be considered to be a request that is for the commercial use.”). Additionally, disclosure of this information is likely to contribute significantly to public understanding of the operations or activities of the federal government, specifically DoD’s assessment of allegations of civilian casualties resulting from U.S. operations in Iraq.

If my request for a fee waiver is denied, I am willing to pay up to a maximum of \$100 for duplication fees associated with this request. If you estimate fees will exceed this limit, please inform me before proceeding.

III. REQUEST FOR EXPEDITED PROCESSING:

Per 5 U.S.C. § 552(A)(6)(E)(v) and 32 C.F.R. § 286.8(e)(3), I certify that this statement of compelling need for expedited processing is true and correct to the best of my knowledge and belief.

There is a compelling need for expedited processing of this request, for the following reasons:

I am a person “primarily engaged in disseminating information,” and there is a an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, these documents illustrate, in part, what the United States knew about civilian casualties resulting from U.S. combat operations in Afghanistan—a factor in the Taliban’s rise to power—and their efforts to address them. In the face of widespread and well-documented public interest in civilian casualty incidents as well as public concern about the lack of transparency about these incidents, how they are assessed, and the impact they had on populations whose hearts and minds America was trying to win, here is an urgency to release these records, as detailed below.

First, as noted above, I am a journalist “primarily engaged in disseminating information[.]” 5 U.S.C. § 552(a)(6)(E)(v)(II), and a “full-time member of the news media[.]” 32 C.F.R. 286.8(e)(3). I am a reporter with the New York Times.

Second, there is an “urgency to inform the public concerning actual or alleged Federal Government activity[.]” 5 U.S.C. § 552(a)(6)(E)(v)(II), because there is a compelling and pressing need for the public to understand how and why government operations in the war against the Taliban may have resulted in the deaths of civilians, as well as in the manner in which the government investigates these allegations—both through the civilian casualty reporting procedure records requested as well as the assessments requested, and payments offered.

Specifically, there is widespread public interest in how the government has determined allegations to be credible or non-credible, information that is only obtainable through these records, and is not available through any other means. Moreover, understanding the circumstances surrounding civilian casualties is critical to understanding how to prevent them, particularly as American troops have left Afghanistan and “over the horizon” operations may continue in the future. Rights groups have repeatedly called for investigations into allegations of civilian casualties, (**Exhibit C** hrw.org/news/2018/02/21/afghanistan-alleged-summary-executions-special-forces), but the public knows little about what those investigations or assessments found.

Additionally, U.S. officials have repeatedly emphasized how information contained in these assessment records is “unique” and “may provide insights unavailable to NGOs,” which makes their disclosure even more urgent and critical to the public.

Based on the response to my previous reporting on civilian casualties resulting from U.S. combat operations, the New York Magazine Cover Story “The Uncounted” and its findings about the discrepancies in the manner in which the government assesses civilian casualty allegations, there is widespread interest in how the U.S. conducts its assessments of civilian casualties and retains records, as expressed by U.S. officials, human rights organizations, transparency advocates, media outlets, and the general public. (See **Exhibit D**:

[nytimes.com/interactive/2017/11/16/magazine/uncounted-civilian-casualties-iraq-airstrikes.html](https://www.nytimes.com/interactive/2017/11/16/magazine/uncounted-civilian-casualties-iraq-airstrikes.html))

The story was cited in dozens of publications, including Air Force Magazine, Axios, Bill Moyers, Bloomberg, Business Insider, CBC, CBS News, Daily Kos, Defense One, Democracy Now, Esquire, Foreign Policy, Huffington Post, MSNBC’s Kasie DC, Newsweek, NPR, All Things Considered, Pacific Standard Magazine, PBS NewsHour, Politico, Quartz, Sports Illustrated, Stars & Stripes, The American Conservative, The Atlantic, The Guardian, The Hill, The Huffington Post, The Independent, The National Interest, The Washington Post, Vox, Washington Examiner, Washington Post, WNYC’s The Brian Lehrer Show.

Ultimately, the story and subsequent public outcry resulted in new operative law in the National Defense Authorization Act (NDAA) mandating the DoD establish uniform policy for condolence payments, as detailed in this excerpt from **EXHIBIT E**, “Condolence Payments for Civilian Casualties: Lessons for Applying the New NDAA”:

Until now, the fear of legal liability has driven condolence-payment policy. DoD officials have been averse to fueling any misperception that the U.S. military has an obligation to provide compensation for civilian casualties that do not violate international humanitarian law. But sentiment shifted in the wake of a groundbreaking New York Times investigation by Azmat Khan and Anand Gopal last November on the failure to implement amends in Iraq and Syria. Section 936 marks the first time that Congress has mandated uniform DoD processes and standards in this area.

The 2020 NDAA mandated additional steps for greater transparency regarding civilian casualty incidents and ex-gratia payments, as detailed in this excerpt from **EXHIBIT F** below:

Section 1213(g) of the NDAA of 2020 requires the Secretary of Defense to submit a report to the congressional defense committees every 90 days. For each ex gratia payment the U.S. military makes during this period, the report should include the following information:

- (A) The amount used for such payments and the country with respect to which each such payment was made.
- (B) The manner in which claims for such payments were verified.
- (C) The position of the official who approved the payment.
- (D) The manner in which payments are made.

But the DoD's latest civilian casualty report has been widely criticized by as "incomplete" and "fatally flawed," particularly with respect to the specific details of ex gratia and condolence payments, as detailed in **EXHIBIT G**, "Grading DODs Annual Civilian Casualties Report: "Incomplete" and **EXHIBIT H**, "The Fatal Flaw in DOD's Latest Civilian Casualties Report."

The publication of the DoD's latest civilian casualty report and ex-gratia report contained sparse details about payments in Afghanistan, with the latter report (**EXHIBIT B**) providing only the country, amount and type of payment—with no details about the incidents in question, the manner in which the allegations were assessed or verified, or details about how the payments were made—all of which is information that would be in the records that I am requesting. None of these records for the six incidents in question have been made public, but contain critical information, such as the number of those injured or killed, the circumstances surrounding these casualties, the likely cause of the casualties, and details about the payments.

Additionally, few individual civilian casualty assessment records from Operation Freedom's Sentinel or Resolute Support have been made public. CENTCOM's FOIA reading room contains civilian casualty records from the October 3, 2015 airstrike in Kunduz, but little to no other assessments or investigations from subsequent years.

As such, disclosure here will significantly contribute to the public's understanding of federal government operations, specifically how it assesses credible civilian casualty allegations, the likely causes of such civilian casualty incidents, and allegations that have resulted in condolence payments in Afghanistan—information that is critical to preventing civilian casualties as well as making the payments system more robust.

Because I am primarily engaged in disseminating information and there is an "urgency to inform the public concerning actual or alleged Federal Government activity[.]" 5 U.S.C. § 552(a)(6)(E)(v)(II), as detailed above, this request is entitled to expedited processing.

IV. DESCRIPTIONS OF ATTACHED EXHIBITS:

EXHIBIT A: Department of Defense Letter provided to Senate Armed Services Committee: SEC 1213 1st Quarter CY 2021[3].pdf

EXHIBIT B: Department of Defense: "Report on Ex Gratia Payments in the Event of property Damage, Personal Injury, or Death That Was Incident to U.S. Military Operations in Foreign Countries During 2019" - Available at

<https://media.defense.gov/2020/May/12/2002298396/-1/-1/1/REPORT-ON-EX-GRATIA-PAYMENTS-IN-THE-EVENT-OF-PROPERTY-DAMAGE-PERSONAL-INJURY-DEATH-THAT-WAS-INCIDENT-TO-U.S.-MILITARY-OPERATIONS-IN-FOREIGN-COUNTRIES-DURING-2019.PDF>

EXHIBIT C: Human Rights Watch: “Afghanistan: Alleged Summary Executions by Special Forces”

Available at

<https://www.hrw.org/news/2018/02/21/afghanistan-alleged-summary-executions-special-forces>

EXHIBIT D: The Uncounted, *The New York Times Magazine*

EXHIBIT E: Just Security: “Condolence Payments for Civilian Casualties: Lessons for Applying the New NDAA”

EXHIBIT F: Just Security: “Congress Expands Oversight of U.S. Payments for Civilian Deaths”

EXHIBIT G: Just Security: “Grading DODs Annual Civilian Casualties Report: ‘Incomplete’”

EXHIBIT H, “The Fatal Flaw in DOD’s Latest Civilian Casualties Report.”

V. CONCLUSION:

Because of several previous delays with the postmarked dates of physical mailings, please provide electronic copies of any responsive records to me at my email address, Azmat.Khan@nytimes.com and KhanA@NewAmerica.org, including any links for download.

If you have any questions regarding this request, please contact me by email or by phone at (347) 852-2585.

I look forward to receiving your determination with respect to my request for expedited processing within 10 calendar days, as required by FOIA. Thank you in advance for your assistance.

Sincerely,



Azmat Khan

Investigative Reporter, New York Times Magazine

cc: Adam A. Marshall, Esq.
Reporters Committee for Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005
amarshall@rcfp.org